



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

R. Scott Ralls, Ph.D.

President

24 March 2014

IMPORTANT INFORMATION

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents
Boards of Trustees Chairs
Community College Business Officers, Registrars, Admissions Officers, Financial
Aid Officers, Public Information Officers & Other Interested Parties

FROM: Q. Shanté Martin, *NCCCS General Counsel*

RE: Proposed Repeal of and Adoption of Title 3, "Rulemaking Process and Codification System"

The State Board of Community Colleges has initiated the rulemaking process to repeal and to adopt the following rule:

Title 3 of the State Board of Community Colleges Code, entitled "Rulemaking Process and Codification System"

The State Board of Community Colleges seeks to clarify existing rules related to rulemaking and codification. **The proposed repeal and adoption are published on the NC Community College System's website, www.nccommunitycolleges.edu, under "State Board Code."** For your convenience, a copy of the proposed rules, with the changes indicated, is attached to this memorandum. Please post a copy of the proposed rules in prominent places so that all individuals affected by the proposed changes will be informed.

Any member of the public has the right to submit written comments on the proposed rules. **Written comments on the rules must be received by no later than 5:00 p.m. on April 23, 2014.** Any member of the public has the right to request a hearing on the proposed rules. **Requests for a hearing must be received by no later than 5:00 p.m. on April 8, 2014.** Written comments and requests for hearing shall be directed to the following address: Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to publiccomments@nccommunitycolleges.edu. Thank you for your attention to this matter.

**CC14-012
E-mail Copy**

Attachments



State Board of Community Colleges Code

Notice of Proposed Rulemaking Form

Date: 24 March 2014

Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed	Repeal "Title 3 – Rule-making Process" Adopt "Title 3 – Rulemaking Process and Codification System"
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Specify whether the SBCC proposes to adopt amend, or repeal a rule:

Adopt (new rule)	Amend (change existing rule)	Repeal (delete entire rule)
X		X

Rationale for proposed adoption, amendment or repeal:	<p>The current "Title 3 – Rule-making Process" is proposed for repeal to adopt the revised "Title 3 – Rulemaking Process and Codification System." The proposed rules in Title 3 of the SBCC Code govern the SBCC process for rulemaking and the system for codifying rules in the SBCC Code. The SBCC rulemaking process is designed to provide a robust rulemaking process that maximizes the efficiency with which it takes to amend, adopt, or repeal a rule while simultaneously retaining a reputable, transparent rulemaking process that involves the public. The codification system is designed to provide clarity, consistency, and uniformity in the SBCC Code.</p>
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Proposed Effective Date of Rule	June 1, 2014
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- 1 (e) "NCCCS" - The North Carolina Community College System.
- 2 (f) "SBCC" - The State Board of Community Colleges.
- 3 (g) "SBCC Code" - The State Board of Community Colleges Code.
- 4 (h) "Permanent Rule" - A rule that the SBCC adopts in accordance with Title 3, Chapter B,
5 Subchapters 200 and 300 of the SBCC Code.
- 6 (i) "Publication" - Publication on the NCCCS website in the SBCC Code section or entry into
7 the SBCC Code.
- 8 (j) "Repeal" - The deletion of the entire text of a rule. When a rule is repealed, that rule number
9 shall not be used again. The number, rule name, and final history note remain in the SBCC
10 Code permanently for publication and reference purposes.
- 11 (k) "Rule" - Any SBCC regulation, standard, or statement applicable to any community college
12 or proprietary school subject to Chapter 115D of the North Carolina General Statutes that
13 implements or interprets an enactment of the General Assembly or Congress or a regulation
14 adopted by a federal agency or that describes the procedure or practice requirements of the
15 SBCC. The term includes the establishment of a fee and the amendment or repeal of a prior
16 rule. The term does not include the following:
- 17 (1) Statements, policies, or procedures concerning only the internal management of the
18 System Office if the statement does not directly or substantially affect the procedural or
19 substantive rights or duties of a person not employed by the System Office.
- 20 (2) Nonbinding interpretative statements from the System Office that merely define,
21 interpret, or explain the meaning of a statute or rule.
- 22 (3) Statements that set forth criteria or guidelines to be used by System Office staff in
23 performing audits, investigations, or inspections; in settling financial disputes or
24 negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
- 25 (l) "Substantive change" - The SBCC has amended language of a proposed rule after the
26 comment period and the public hearing, if any, has taken place, and the amended language
27 does one or more of the following:
- 28 (1) Impacts the interests of persons who, based on the proposed text of the rule published on
29 the NCCCS website could not have reasonably determined that the rule would affect their
30 interests.

1 (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the
2 rule.

3 (3) Produces an effect that could not reasonably have been expected based on the proposed
4 text of the rule.

5 (m) “Temporary rule” - A rule that the SBCC adopts without prior notice or hearing or upon any
6 abbreviated notice or hearing in accordance with Title 3, Chapter B, Subchapter 400 of the
7 SBCC Code.

8
9 *History Note: Authority G.S. 115D-5;*

10 *Eff. June 1, 2014*

11
12 **CHAPTER B. RULEMAKING PROCESS**

13
14 **SUBCHAPTER 100. INITIATING RULEMAKING PROCESS**

15
16 **3B SBCCC 100.1 Petition for Rulemaking**

17 (a) Any person, organization, or entity requesting the SBCC to adopt, amend, or repeal a rule has
18 the authority to submit a written petition requesting such adoption, amendment, or repeal to
19 the NCCCS President.

20 (b) For a petition for rulemaking to be approved for initiation of the rulemaking process, all
21 written petitions for rulemaking shall include the following information from the requesting
22 party:

23 (1) The requesting party’s name;

24 (2) The requesting party’s e-mail address;

25 (3) The requesting party’s proposed language for the adoption or amendment;

26 (4) If the requesting party proposes the repeal of a rule, the requesting party shall identify the
27 rule by title, chapter, subchapter, and rule section; and

28 (5) The requesting party’s rationale for proposed adoption, amendment, or repeal.

29 (c) On behalf of the SBCC, the NCCCS President or the NCCCS President’s designee must
30 communicate the President’s decision to grant or to deny the rulemaking petition in writing
31 to the requesting party within 120 calendar days from receipt of the rulemaking petition. The

1 NCCCS President’s decision to grant the rulemaking petition means that the SBCC will
2 initiate the rulemaking process to adopt, amend, or repeal the substance of the rule proposed
3 by the requester.

4 (d) If the NCCCS President denies the rulemaking petition, the NCCCS President or NCCCS
5 President’s designee shall provide the requesting party with the rationale for denying the
6 rulemaking petition. If the NCCCS President denies the rulemaking petition, the NCCCS
7 President or NCCCS President’s designee shall report the denial of the rulemaking petition to
8 the Policy Committee of the State Board of Community Colleges for information.

9
10 *History Note: Authority G.S. 115D-5;*

11 *Eff. June 1, 2014*

12
13 **3B SBCCC 100.2 State Board Review**

14 (a) If the NCCCS President approves a rulemaking petition, consistent with SBCC Bylaws, the
15 SBCC will evaluate the proposed rule adoption, amendment, or repeal for the first time on
16 the SBCC agenda “For Future Action.” The SBCC shall evaluate the proposed rule adoption,
17 amendment, or repeal for initiation of the rulemaking process on the agenda “For Action” at
18 the SBCC meeting following the SBCC’s first review of the proposed rule, unless the SBCC
19 determines otherwise.

20 (b) The SBCC shall initiate the rulemaking process when it is satisfied with the language of the
21 proposed rule adoption, amendment, or repeal.

22
23 *History Note: Authority G.S. 115D-5;*

24 *Eff. June 1, 2014*

25
26 **SUBCHAPTER 200. PUBLIC INPUT**

27
28 **3B SBCCC 200.1 Publication of Proposed Rule**

29 (a) The text of the proposed rule adoption, amendment, or repeal (Notice of Proposed Rule) shall
30 be published conspicuously on the NCCCS website within two business days of the SBCC
31 voting to initiate the rulemaking process.

1 (b) The text of the proposed rule adoption, amendment, or repeal shall comply with 3C SBCCC
2 200.1.

3 (c) The Notice of Proposed Rule shall have an explanation detailing the basis for the proposed
4 adoption, amendment, or repeal.

5
6 *History Note: Authority G.S. 115D-5;*

7 *Eff. June 1, 2014*

8
9 **3B SBCCC 200.2 Public Comment Period**

10 (a) The SBCC will accept oral or written comments on the proposed rule for at least 30 calendar
11 days after the Notice of Proposed Rule is published on the NCCCS website or until the date
12 of the public hearing, whichever is longer.

13 (b) To ensure receipt, written comments shall be submitted via one of the following methods:

14 (1) Electronic mail to publiccomments@ncccommunitycolleges.edu;

15 (2) Postal mail to NCCCS Rulemaking Coordinator, 5001 Mail Service Center; Raleigh, NC
16 27699-5001; or

17 (3) Facsimile to (919) 807-7171.

18
19 *History Note: Authority G.S. 115D-5;*

20 *Eff. June 1, 2014*

21
22 **3B SBCCC 200.3 Public Hearing**

23 (a) If the SBCC receives a written request for a public hearing via one of the methods specified
24 in 3B SBCCC 200.2(b) within 15 calendar days of publication of the Notice of Proposed
25 Rule on the NCCCS website, the SBCC must hold a public hearing and publish notice of the
26 hearing conspicuously on the NCCCS website. There must be at least 10 calendar days
27 between the notice of hearing and the actual date of the hearing.

28 (b) If the SBCC does not receive a written request for a public hearing, it is within the SBCC's
29 discretion to determine whether it will hold a public hearing.

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31 *History Note: Authority G.S. 115D-5;*

1 Eff. June 1, 2014

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3 **SUBCHAPTER 300. STATE BOARD APPROVAL PROCESS**

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5 **3B SBCCC 300.1 Changes Based on Public Comment**

- 6 (a) The SBCC, consistent with its Bylaws, will review all comments received at its meeting
7 immediately following the end of the 30-day comment period, or at its meeting immediately
8 following the public hearing, whichever occurs last.
- 9 (b) If the SBCC makes any substantive changes to the proposed rule after the end of the 30-day
10 comment period, the changes shall be posted to the NCCCS website within two business
11 days of the meeting wherein the SBCC amended the proposed rule.
- 12 (c) The public will have five business days from the date the amended proposed rule is published
13 on the NCCCS website to provide written comments on the amended proposed rule. Written
14 comments on the amended proposed rule shall be submitted in accordance with 3B SBCCC
15 200.2(b).
- 16 (d) After the conclusion of the five-day comment period in 3B SBCCC 300.1(c), the SBCC will
17 review all additional comments at the meeting immediately following the end of the five-day
18 comment period.

19
20 History Note: Authority G.S. 115D-5;

21 Eff. June 1, 2014

22
23 **3B SBCCC 300.2 State Board Rule Approval**

- 24 (a) If the SBCC does not receive any public comments after the 30-day comment period in 3B
25 SBCCC 200.2(a), or if the SBCC determines that the comments received do not warrant
26 modification of the proposed rule, then the SBCC has the authority to adopt, amend, or repeal
27 the proposed rule at its meeting immediately following the 30-day comment period in 3B
28 SBCCC 200.2(a) or at its meeting immediately following the public hearing, whichever
29 occurs last.
- 30 (b) If the SBCC does not receive any additional public comments after the five-day comment
31 period in 3B SBCCC 300.1(c), or if the SBCC determines that the comments received do not

1 warrant further modification of the proposed rule, then the SBCC has the authority to adopt,
2 amend, or repeal the proposed rule at its meeting immediately following the five-day
3 comment period.

4 (c) The SBCC shall adopt, amend, or repeal proposed rules within 180 calendar days after the
5 end of the 30-day comment period in 3B SBCCC 200.2(a). If the SBCC does not adopt,
6 amend, or repeal a proposed rule within 180 calendar days after the end of the 30-day
7 comment period in 3B SBCCC 200.2(a), the SBCC shall comply with Subchapters 200 and
8 300 of this Chapter.

9 (d) All adopted, amended, or repealed rules shall be published on the NCCCS website in the
10 SBCC Code section no later than one business day after the effective date of the rule.

11
12 *History Note: Authority G.S. 115D-5;*

13 *Eff. June 1, 2014*

14 15 **3B SBCCC 300.3 Effective Date**

16 The effective date of all rules adopted, amended, or repealed by the SBCC shall be the first day
17 of the month following the SBCC's adoption, amendment, or repeal, unless the SBCC specifies
18 another effective date.

19
20 *History Note: Authority G.S. 115D-5;*

21 *Eff. June 1, 2014*

22 23 **SUBCHAPTER 400. TEMPORARY RULES**

24 25 **3B SBCCC 400.1 Temporary Rule Standard**

26 The SBCC has the authority to adopt a temporary rule to comply with federal or state law, and
27 federal or state law requires adoption in a time period less than the rulemaking time period
28 allotted by the SBCC Code.

29
30 *History Note: Authority G.S. 115D-5;*

31 *Eff. June 1, 2014*

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2 **3B SBCCC 400.2 Adoption of Temporary Rules**

- 3 (a) The SBCC has the authority to adopt a temporary rule without prior notice or hearing or upon
4 any abbreviated notice or hearing the SBCC finds practical at the SBCC meeting
5 immediately following the event precipitating the need for a temporary rule.
6 (b) The SBCC shall publish the temporary rule on the NCCCS website within five business days
7 after the SBCC adopts the temporary rule. A statement specifying the basis for adopting a
8 temporary rule rather than following the process for a permanent rule shall accompany the
9 temporary rule when it is published on the NCCCS website.
10 (c) The temporary rule expires 60 calendar days from the date it was published on the NCCCS
11 website. If the temporary rule is to be effective beyond 60 calendar days from the date it was
12 published on the NCCCS website, the process for the permanent rule must be initiated at the
13 same time the SBCC adopts the temporary rule.

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15 *History Note: Authority G.S. 115D-5;*

16 *Eff. June 1, 2014*

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18 **CHAPTER C. CODIFICATION OF RULES**

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20 **SUBCHAPTER 100. GENERAL RULE CODIFICATION PROVISIONS**

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22 **3C SBCCC 100.1 Citation to Authorities**

- 23 (a) The SBCC shall cite authorities according to the most current edition of the rules of citation
24 contained in "A Uniform System of Citation" except as listed in Paragraph (b) of this Rule.
25 "A Uniform System of Citation" is hereby incorporated by reference and includes subsequent
26 amendments and editions.
27 (b) The SBCC shall cite:
28 (1) the General Statutes of North Carolina as "G.S. #";
29 (2) the Session Laws of North Carolina as "S.L. 20xx-xxx, s. #";
30 (3) an Executive Order issued by the Governor as "E.O. # ((Governor's name) (year))";

1 (4) the North Carolina Administrative Code as "(Title #) NCAC (Chapter or Subchapter #)
2 (.####)"; and
3 (5) the North Carolina Register as "(Vol. #) NCR (Issue #), (page #)".
4

5 *History Note: Authority G.S. 115D-5;*

6 *Eff. June 1, 2014*
7

8 **3C SBCCC 100.2 Illustrations and Notes**

9 The SBCC may include material in the text of a rule which is an illustration of something in the
10 rule. Illustrations shall be examples or clarifications which, when not read, do not change the
11 meaning of the rule. The material which is meant only as an illustration shall be set aside by
12 preceding it with the word "Note:".
13

14 *History Note: Authority G.S. 115D-5;*

15 *Eff. June 1, 2014*
16

17 **3C SBCCC 100.3 Codification System**

18 (a) All rules shall be codified within the system described in Chapter C.

19 (b) The SBCC shall arrange its rules in titles. Within each title, there shall be chapters. Chapters
20 shall be divided into subchapters and subchapters shall be arranged in sections.

21 (c) SBCC Code rules shall be cited as "(Title #)(Chapter #) SBCCC (Subchapter #)(.Section #)".

22 (d) The SBCC may reserve in writing a specified chapter, subchapter, or section for future use.
23

24 *History Note: Authority G.S. 115D-5;*

25 *Eff. June 1, 2014*
26

27 **SUBCHAPTER 200. RULE FORMATTING**

28

29 **3C SBCCC 200.1 Rule Formatting Specifications**

30 The SBCC shall format each rule submitted to the SBCC for initiation and adoption as follows:

31 (1) Paper Specifications:

- 1 (a) 8½ by 11 inch plain white paper;
2 (b) one side of the sheet only;
3 (c) black ink;
4 (d) Times New Roman font face;
5 (e) 12 point font size;
6 (f) portrait print (8½ x 11);
7 (g) numbered lines on the left margin with each page starting with line 1;
8 (h) 1.5 line spacing;
9 (i) page numbers centered at the bottom of the page for each rule that has more than one
10 page of text; and
11 (j) no staples.

12 (2) Tab and Margin Settings:

- 13 (a) tab settings for all rules shall be set relative from the left margin at increments of 0.25;
14 and
15 (b) text shall have one inch margins on all sides and be justified.

16 (3) There shall be a brief introductory statement summarizing the status of the rule in the process
17 of initiation and adoption placed in the header and italicized on the first page of any rule.

18 (4) Chapter, Subchapter, and Rule Section Names:

- 19 (a) When a new chapter is proposed for adoption, the chapter letter and chapter name shall
20 be in bold print, underlined with all letters capitalized, and centered with one tab
21 following the chapter letter. Two lines shall be skipped between the prior rule and a new
22 chapter name. One line shall be skipped between the chapter name and the subchapter
23 name.
24 (b) When a new subchapter of rules is proposed for adoption, the subchapter name shall be in
25 bold print with all letters capitalized, and centered with one tab following the subchapter
26 number. One line shall be skipped between the prior rule and a new subchapter name.
27 (c) When a new section of rules is proposed for adoption, the section name shall be in bold
28 print with the first letter of each word that is not an article capitalized. One line shall be
29 skipped between the end of one rule section and the beginning of another rule section.
30 No lines shall be skipped between the rule section name and the text of the rule.

1 (5) The first digit of the title number shall be placed in position 1. One tab shall be between the
2 rule number and rule name.

3 (6) Body of the Rule:

4 (a) the body of the rule shall start on the line immediately following the rule name with the
5 following markings:

6 (i) adoptions - new text shall be underlined;

7 (ii) amendments - any text to be deleted shall be struck through and new text shall be
8 underlined; and

9 (iii) repeals - text of the rule shall not be included;

10 (b) there shall be no lines skipped in the body of the rule except before and in tables;

11 (c) the first level of text shall be flush left and with one tab after the closing parenthesis if the
12 paragraph is identified by a letter;

13 (d) the second level of text shall start with one tab and one hanging indent after the closing
14 parenthesis;

15 (e) the third level of text shall start with two tabs and one hanging indent after the closing
16 parenthesis;

17 (f) the fourth level of text shall start with three tabs and one hanging indent after the closing
18 parenthesis;

19 (g) the fifth level of text shall start with four tabs and one hanging indent after the closing
20 parenthesis; and

21 (h) the sixth level of text shall start with five tabs and one hanging indent after the closing
22 parenthesis.

23 (7) The smallest unit of text to be struck through or underlined shall be an entire word with any
24 punctuation that is part of the word or block of characters separated from other text by a
25 space on each side. Punctuation shall be considered part of the word when there is no space
26 between the punctuation and the word.

27 (8) History Note Specifications:

28 (a) shall be in italic font;

29 (b) shall start on the second line following the body of the rule;

30 (c) the first line of the History Note shall start in the first position; all lines following shall be
31 two tabs;

- 1 (d) the first line shall start with the words "History Note:", followed by one tab and the word
2 "Authority". The SBCC shall then cite the authority(ies) in numerical order for that rule;
3 (e) the effective date of the original adoption of the rule shall be the next line following the
4 authority. The abbreviation "Eff." shall be followed by this date;
5 (f) on the line following the "Eff." date, the amended dates shall be preceded with the words
6 "Amended Eff." and the dates shall be listed in chronological order, with the most recent
7 amended date listed first;
8 (g) the repealed date of a rule shall be the last line of the history note and start with the words
9 "Repealed Eff." followed by the date;
10 (h) all items in the history note shall be separated by semicolons with the last line ending
11 with a period;
12 (i) all history of a rule shall be in chronological order following the authority for the rule;
13 and
14 (j) all dates in the history note shall be complete with the month spelled out, and shall not
15 contain any abbreviations.

16 (9) Numbers within the text shall be as follows:

- 17 (a) numbers from one to nine shall be spelled out;
18 (b) figures shall be used for numbers over nine; and
19 (c) if a phrase contains two numbers, only one of which is over nine, figures shall represent
20 both.

21 (10) Monetary figures within the text shall be spelled out followed by the numerical figure in
22 parenthesis. Decimal and zeros shall be used only for even dollar amounts of sums less than
23 one thousand dollars (\$1,000).

24 (11) Once the SBCC has adopted a rule, the rule shall be published on the NCCCS website in
25 the SBCC Code section without complying with 3C SBCCC 200.1(1)(g) and (h) and without
26 complying with 3C SBCCC 200.1(6)(a).

27
28 History Note: Authority G.S. 115D-5;

29 Eff. June 1, 2014
30

31 **3C SBCCC 200.2 Rule Formatting Specifications for Substantive Changes**

1 (a) The SBCC shall prepare for publication on the NCCCS website in the SBCC Code section
2 any permanent rule that does not differ in any way from the proposed rule published on the
3 NCCCS website in the SBCC Code section according to the general format instructions in 3C
4 SBCCC 200.1(6).

5 (b) If a permanent rule differs in any way from the proposed rule published on the NCCCS
6 website in the SBCC Code section, the following applies:

7 (1) The SBCC shall identify changes in an adopted rule by striking through deleted portions,
8 and underlining added portions. The unchanged text shall not be underlined.

9 (2) The SBCC shall identify changes in an amended rule as follows:

10 (A) when text has been added, the text added shall be underlined and highlighted;

11 (B) when existing text has been deleted, the text deleted shall be struck through and
12 highlighted;

13 (C) when text that was proposed to be deleted has been restored, the restored text shall be
14 highlighted, but not underlined or struck through;

15 (D) when text that was proposed to be added has been deleted, the deleted proposed text
16 shall be enclosed in brackets, struck through and highlighted; and

17 (E) when text is required to be highlighted, the highlighting shall be by highlight marker
18 or shall be computer generated. The text shall show through the highlight and be clear
19 and legible when reproduced.

20 (3) If the SBCC repeals a rule originally noticed to be amended, then the SBCC shall
21 submit the rule as a permanent repeal.

22
23 History Note: Authority G.S. 115D-5;

24 Eff. June 1, 2014

25
26 **3C SBCCC 200.3 Chapter Division**

27 (a) The SBCC may use the chapter to divide titles into subject areas.

28 (b) When subdividing a title into chapters, the SBCC shall subdivide the entire title into at least
29 two chapters.

30 (c) A chapter of the SBCC Code shall be represented by a capital letter. Chapter letters shall be
31 lettered alphabetically.

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History Note: Authority G.S. 115D-5;

Eff. June 1, 2014

3C SBCCC 200.4 Subchapter Division

(a) The SBCC shall place rules in the same subject area in one subchapter. The subchapter is the subdivision that contains rules.

(b) All subchapters shall be represented as the first three digits preceding a decimal. Subchapters shall be numbered consecutively starting with Subchapter 100. unless a subchapter number has been reserved.

History Note: Authority G.S. 115D-5;

Eff. June 1, 2014

3C SBCCC 200.5 Section Division

(a) The section shall be represented by the digits following a decimal. Sections shall be numbered consecutively unless a rule number has been reserved. The last digit of the first section shall be "1".

(b) For rule sections adopted by the SBCC, the SBCC shall subdivide a section containing more than one idea into paragraphs labeled: (a), (b), (c), Any subdivided paragraphs shall be labeled: (1), (2), (3), ...; (A), (B), (C), ...; (i), (ii), (iii), ...; (I), (II), (III), All subdivisions of rules shall be represented by this order, and each label shall be in parentheses.

(c) For rule sections adopted by the SBCC when the section is not subdivided into paragraphs but contains a list, the sequence of labels for the lists shall be: (1), (2), (3), ...; (a), (b), (c), ...; (i), (ii), (iii), ...; (A), (B), (C), ...; (I), (II), (III),

(d) A rule shall not begin with a list. A list contained within a rule shall be preceded by some form of introductory material.

(e) If there is a list within a paragraph, the rule shall follow the sequence above in section (b).

History Note: Authority G.S. 115D-5;

Eff. June 1, 2014

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2 **3C SBCCC 200.6 History Note**

3 (a) The SBCC shall include a history note for each rule submitted to the SBCC for publication in
4 the SBCC Code, containing the following information:

5 (1) the authority for the rule;

6 (2) the effective date of the adoption of the rule;

7 (3) the effective date of the amendments to the rule including the proposed amendment listed
8 in chronological order with the proposed amendment first;

9 (4) the effective date of the repeal; and

10 (5) any other history references pertaining to the rule.

11 (b) Notwithstanding Paragraph (a) of this Rule, the SBCC shall combine repealed rules with a
12 single history note if the rules are consecutive numerically in the same section and the
13 effective dates and repealed dates are identical. The SBCC shall combine authority cites and
14 any other dates.

15
16 History Note: Authority G.S. 115D-5;

17 Eff. June 1, 2014

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19 **3C SBCCC 200.7 Changes to Title, Chapter, Subchapter, or Section Names and History**
20 **Notes**

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22 The SBCC may change the name of a section, subchapter, chapter, or title and a history note
23 without complying with Title 3, Chapter B by posting notice of the change on the NCCCS
24 website in the SBCC Code section. The effective date of the change shall be no earlier than ten
25 business days from the date of the notice.

26
27 History Note: Authority G.S. 115D-5;

28 Eff. June 1, 2014

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30 **3C SBCCC 200.8 Recodification of Rules**

31 The SBCC may recodify one or more of its rules without complying with Title 3, Chapter B by
32 posting notice of the change on the NCCCS website in the SBCC Code section. The notice shall

1 contain the citation to the existing rule and the recodified citation, and the reasons for the
2 recodification. The effective date of the recodification shall be no earlier than ten business days
3 from the date of the notice.

4
5 *History Note: Authority G.S. 115D-5;*

6 *Eff. June 1, 2014*

DRAFT

Title 3 is proposed for repeal as follows:



~~SUBCHAPTER 100—RULE MAKING PROCESS~~

~~3A SBCCC 100.93—PETITIONS~~

~~(a) Any person wishing to request the adoption, amendment, or repeal of a rule made by the State Board, Department of Community Colleges, shall make a request in a petition addressed to:~~

~~System President
Department of Community Colleges
200 West Jones Street
Raleigh, NC 27603 1379~~

~~(b) The petition shall contain the following information:~~

- ~~(1) either a draft of the proposed rule or a summary of its contents;~~
 - ~~(2) the statutory authority for the agency to adopt the rule;~~
 - ~~(3) the reasons for the proposal;~~
 - ~~(4) the effect of the proposed rule on existing rules;~~
 - ~~(5) any data supporting the proposal;~~
 - ~~(6) the effect of the proposed rule on existing practices in the area involved, including cost factors;~~
- ~~and~~
- ~~(7) the name and address of the petitioner.~~

~~(c) The System President or designee shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The System President or designee shall consider all the contents of the submitted petition and any additional information deemed relevant.~~

~~(d) Within 120 days of submission of the petition, the State Board or designee shall render a decision. If the decision is to deny the petition, the System President or designee shall notify the petitioner in writing, stating the reason(s) for the denial. If the decision is to approve the petition, the State Board shall publish a notice of rule-making proceedings.~~

~~History Note: Authority G.S. 143B 10(j)(2); 150B 20;
Eff. September 1, 1993;
Amended Eff. March 1, 1997.~~

~~3A SBCCC 100.94—HEARING OFFICER~~

~~The System President, or one or more hearing officers designated by the System President, shall be hearing officer(s) in a rulemaking hearing.~~

~~History Note: Authority G.S. 143B 10; 150B 21.2;
Eff. September 1, 1993.~~

~~3A SBCCC 100.95—HEARINGS~~

~~(a) Any person desiring to make an oral presentation at a public hearing may submit a written copy of the presentation to the hearing officer prior to or at the public hearing.~~

~~(b) Presentations shall not exceed 10 minutes.~~

~~(c) Written comments must be sent to:~~

~~System President
Department of Community Colleges
200 West Jones Street
Raleigh, NC 27603 1379~~

~~(d) The hearing officer shall have control over the rule making hearing, including:~~

- ~~(1) the responsibility of having a record made of the hearing;~~
- ~~(2) extension of any time allotments;~~
- ~~(3) recognition of speakers;~~
- ~~(4) prevention of repetitious presentations; and~~
- ~~(5) general management of the hearing.~~

~~(e) The hearing officer shall ensure that each person attending the hearing is given a fair opportunity to present views, data, and comments.~~

~~History Note: Authority G.S. 143B-10; 150B-21.2;
Eff. September 1, 1993;
Amended Eff. March 1, 1997.~~

~~3A SBCCC 100.96 — STATEMENT OF REASONS FOR AND AGAINST RULE MAKING DECISION~~

~~(a) Any person who desires from the System President a concise written statement of the principal reasons for or against the decision by the State Board to adopt or reject a rule may, within 30 days after adoption of a rule, submit a request to:~~

~~System President
Department of Community Colleges
200 West Jones Street
Raleigh, NC 27603-1379~~

~~(b) The request must be made in writing and must identify the rule or proposed rule involved.~~

~~(c) The System President shall issue the statement of reason(s) against the State Board's decision within 45 days after receipt of the request.~~

~~History Note: Authority G.S. 143B-10; 150B-21.2;
Eff. September 1, 1993;
Amended Eff. March 1, 1997.~~

~~3A SBCCC 100.97 — RECORD OF RULEMAKING PROCEEDINGS~~

~~A record of all rulemaking proceedings conducted by the State Board, including responses to petitions for rulemaking, shall be maintained in the office of the System President and shall be available for public inspection during regular office hours. This record shall include:~~

- ~~(1) the original petition, if any;~~
- ~~(2) the notice;~~
- ~~(3) written presentation or submission;~~
- ~~(4) a transcript or audio tape of the oral hearing; and~~
- ~~(5) a final draft of the adopted rule.~~

~~History Note: Authority G.S. 143B-10; 150B-21.2;
Eff. September 1, 1993.~~

~~3A SBCCC 100.98 — FEES~~

~~Any person requesting copies of materials from the hearing record shall be charged five cents (\$.05) per page.~~

~~History Note: Authority G.S. 132-6;
Eff. September 1, 1993.~~

~~3A SBCCC 100.99 — DECLARATORY RULINGS~~

~~(a) The State Board shall have the power to make declaratory rulings. A declaratory ruling means the State Board's determination of the validity of a specific rule or whether a specific statute, rule or order applies to a given set of facts. All requests for declaratory rulings shall be by written petition and shall be submitted to:~~

~~System President
Department of Community Colleges~~

200 West Jones Street
Raleigh, NC 27603-1379

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner;
- (2) the statute or rule to which the question relates;
- (3) a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him; and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the State Board believes that the issuance of a declaratory ruling is undesirable, it shall refuse to issue one. Where a declaratory ruling is deemed inappropriate, the System President or designee shall notify in writing the petitioner, stating reasons for the denial of a declaratory ruling. The State Board may refuse to consider the validity of a rule:

- (1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;
- (2) unless the rule making record evidences a failure by the agency to consider specified relevant factors;
- (3) unless circumstances stated in the request or otherwise known to the agency show that a declaratory ruling would presently be appropriate.

(d) Where a declaratory ruling is deemed appropriate, the State Board shall issue the ruling within 60 days of the receipt of the petition.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be deemed appropriate, in the discretion of the State Board or its designee in the particular case.

(f) The System President or his designee may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.

(g) A record of all declaratory ruling proceedings shall be maintained by the System President and shall be available for public inspection during regular business hours. This record shall contain:

- (1) the original request;
- (2) the reason(s) for refusing to issue a ruling when the request is denied;
- (3) all written memoranda and information submitted;
- (4) any written minutes or audio tape or other record of the oral hearing; and
- (5) a statement of the ruling when the request is granted.

History Note: Authority G.S. 150B-4;
Eff. September 1, 1993;
Amended Eff. March 1, 1997.